



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
-----------------	-------------	----------------------	---------------------	------------------

10/783,650

02/20/2004

Daniel Gregorich

S63.2-11303-US01

7347

490 7590 03/11/2008
VIDAS, ARRETT & STEINKRAUS, P.A.
SUITE 400, 6640 SHADY OAK ROAD
EDEN PRAIRIE, MN 55344

EXAMINER

NGUYEN, VI X

ART UNIT

PAPER NUMBER

3734

MAIL DATE

DELIVERY MODE

03/11/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/783,650	Applicant(s) GREGORICH, DANIEL	
	Examiner Victor X. Nguyen	Art Unit 3734	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 November 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-36 is/are pending in the application.
- 4a) Of the above claim(s) 23-36 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 14 is/are allowed.
- 6) ☒ Claim(s) 1-13, 15-22 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-13 and 15-22 are rejected under 35 U.S.C. 102 (e) as being anticipated by Kaplan et al (US 2006/0025849).

Kaplan et al disclose in figures 2D-F a stent structure having the limitations as recited in the above listed claims, including: two serpentine bands 50, 82 has first connector or first asymmetric connector at segment A (see marked up copy fig. 2f sent out 10/2/2007), a second connector or second asymmetric connector at segment B (see figure 2f), where the first connector has a first portion of a first curvature at section A', where the second connector has a second curvature at section B' (see figure 2f) where the second portion is more flexible than the first portion (see figure 2f), and where the first and second connector are adjacent one another and the second portion of the first connector nests within the first portion of the second connector and the second portion of the second connector nests within the first portion of the first connector at best seen in figures 2e,f, where each first connector includes at least one linear section connecting the first and second portions of the first connector and each second connector includes at least one linear section connecting the first and second portions of the second connector (see fig. 2d). Note the procedure in fig. 2f best describes the second connector rotated by 180

degrees, where the stent can be crimped about a catheter (see paragraph 47), and where the serpentine bands have peaks at 78 and troughs at 50.

Allowable Subject Matter

2. Claim 14 is allowable over the art of record.

Response to Arguments

3. Applicant's arguments filed 11/26/2007 have been fully considered but they are not persuasive. The applicant argues that Kaplan et al reference fails to show certain feature of applicant's invention, it is noted that the feature upon which applicant relies (i.e., *these portions of Kaplan do not have discernable apices and bases and do not have a second arc base less circumferential than a first arc apex and a second connector in which a portion of a first curvature has a different flexibility than a portion of a second curvature*) is not recited **in the rejected claim(s) 1**. Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

In response to applicant's argument that Kaplan does not disclose a second portion of the first connector nesting within the first portion of a second connector and a second portion of the second connector nesting within the first portion of the first connector. In fact, it is noted that on the marked up copy of Kaplan's fig. 2f sent out 10/2/2007 having first connector has a first portion of a first curvature at section A', where the second connector has a second curvature at section B' (see figure 2f) where the second portion is more flexible than the first portion (see figure 2f), and where the first and second connector are adjacent one another and the second portion of the first connector nests within the first

Art Unit: 3734

portion of the second connector and the second portion of the second connector nests within the first portion of the first connector at best seen in figure 2f. Thus a stent with nested flexible connectors has each individual flexible connector nested into both adjacent flexible connector, i.e., the flexible connector directly below B' and the flexible connector directly above B that individual flexible connector. Accordingly, the above noted reference is still considered to read on the claimed limitations of the claims noted.

Conclusion

4. THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Victor X. Nguyen whose telephone number is (571) 272-4699. The examiner can normally be reached on M-F (8-4.30 P.M).

Art Unit: 3734

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ho Jackie can be reached on (571) 272-4697. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Victor X Nguyen
Examiner
Art Unit 3734

/Kevin T. Truong/
Primary Examiner, Art Unit 3734

VN
2/22/2008